IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4581 of 2004
With
SPECIAL CIVIL APPLICATION No. 4582 of 2004

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MEHSANA DISTRICT COOPERATIVE MILK PRODUCERS UNION LTD - Petitioner(s)

Versus

WORKMEN EMPLOYED BY MEHSANA DISTRICT COOPERATIVE MILK - Respondent(s)

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Appearance :
MR RAJNI H MEHTA for Petitioner No(s).: 1.
MR BHARAT T RAO for Respondent No(s).: 1.
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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH
Date : 25/08/2005

ORAL COMMON JUDGMENT

In both these petitions, the common petitioner has challenged the legality and validity of the judgment and award passed by the Industrial Tribunal, Ahmedabad dated 30th September 2003 in Reference (IT) No. 762/84 by which the Industrial

Tribunal has awarded bonus at the rate of 20%, less 8.33% already paid for the years 1979-80, 1980-81 and 1981-82 and also challenged the legality and validity of the judgment and award passed by the Industrial Tribunal, Ahmedabad, dated 30th September 2003 in Reference (IT) No. 680 of 1984 awarding bonus at the rate of 20%, less 8.33% already paid for the year 1982-83.

2. It appears that considering the aforesaid two judgments and awards passed by the Industrial Tribunal, the amount which was required to be paid comes to Rs. 71,69,000/= and the same has been deposited by the petitioner with the Registry of this Court pursuant to the order passed by this Court dated 4.8.2004 and, according to the learned advocates appearing for the parties, the said amount has been invested in Fixed Deposit by the Registry of this Court.

3. These Special Civil Applications were directed to be placed on Board on the request being made on behalf of the parties to finally dispose of the same in view of the settlement arrived at between the parties. Today when the matters are called out, Shri Rajni H. Mehta, learned advocate appears on behalf of the petitioner and Shri Bharat T. Rao, learned advocate appears on behalf of the respondent Union. Shri Jayantibhai Chaudhry, representative of Chairman, Dr. Nitin Sancheti, Deputy Manager (H.R. &

Admn), Shri Bipin Gami, Labour Officer are present on behalf of the petitioner, and Shri Hirabhai S. Chaudhry, President and Amrutbhai B. Rabari, General Secretary of the Union are present and they are identified by their respective Advocates.

4. The parties have submitted jointly that the petitioners had agreed to pay an amount of Rs. 48 lakhs to be distributed amongst the employees of the Dairy as per the written instructions of the Union and that the Judgment and Awards dated 30th September 2003 passed in Reference (IT) No. 762/84 and Reference (IT) No. 680/84 be quashed and set aside. Shri Mehta, learned advocate appearing on behalf of the petitioner had produced on record the settlement signed by all the concerned parties who were present in the Court. The copy of the settlement produced by the learned advocate Shri Mehta is directed to be taken on record.

5. Shri BT Rao learned advocate appearing on behalf of the respondent Union has submitted that he is agreeable for the settlement and accept Rs. 48 lakhs from the petitioner to be distributed amongst the employees of the petitioner Dairy, however he is not agreeable to the quashing and setting aside of the judgment and awards passed by the Industrial Tribunal, Ahmedabad in aforesaid two References (IT) No. 762/84 and 680/84. The objection of Shri BT Rao, learned advocate appearing on behalf of the

respondent is noted. However, in view of the settlement entered into between the parties and in view of the fact that when this Court has specifically asked the Office Bearers of the respondent Union who are present in the Court whether they have any objection if the judgment and awards passed by the Industrial Tribunal in References (IT) No. 762/84 and 680/84 dated 30th September 2003 are quashed and set aside by this Court the Office Bearers submitted that they have no objection if this Court quash and set aside the judgment and awards dated 30th September 2003 passed in the aforesaid References and that they have agreed to accept Rs. 48 lakhs to be distributed amongst the employees of the petitioner Dairy. Considering the abovesaid Settlement, the judgment and awards passed by the Industrial Tribunal, Ahmedabad dated 30th September 2003 in Reference (IT) No. 762/84 and Reference (IT) No. 680/84 are hereby quashed and set aside.

6. The learned advocates appearing on behalf of the parties in presence of representatives of the petitioner as well as respondent union have submitted that the aforesaid settlement amount of Rs. 48 lakhs would cover the claim arising out of judgment and award dated 30th November 2004 passed by the Industrial Tribunal, Ahmedabad in Reference (IT) No. 157/1986 also and hence on payment of Rs. 48 lakhs, the petitioner will not be liable to pay any further amount pursuant to the judgment and award dated 30th

November 2004 passed by the Industrial Tribunal, Ahmedabad in Reference (IT) No. 157/1986. The copy of the settlement arrived at between the parties as produced by the parties be taken on record.

7. As agreed between the parties, the aforesaid amount of Rs. 71,69,000/- deposited by the petitioner with the Registry of this Court be paid to the petitioner Dairy and on getting the said amount, the petitioner may disburse the amount of Rs. 48 lakhs to the concerned employees by Account Payee Cheques. The balance amount of Rs. 23,69,000/= and the amount of interest accrued thereon be retained by the petitioner.

8. In view of the aforesaid facts and circumstances and the consensus reached between the parties, the Registry is directed to refund the amount of Rs. 71,69,000/= along with the interest accrued thereon by prematurely encashing the Fixed Deposit Receipt to the petitioner by Account Payee Cheque at the earliest preferably within the period of four weeks. The petitioner is directed to disburse the amount of Rs. 48 lakhs by Account Payee Cheques to the concerned employees according to the list of such employees as may be given by the respondent union within a period of two weeks on receipt of the amount from the Registry of this Court

as stated hereinabove.

9. Rule is made absolute to the aforesaid extent in each of the matter with no order as to costs.

[M.R. Shah, J.]

RMR.